



FREDERICK COUNTY PLANNING COMMISSION

October 13, 2010

TITLE: T-Mobile Monopole at Woodville & Old Annapolis Roads

FILE NUMBER: SP 10-02 (AP#'s 10406, 10404 & 11105)

REQUEST: Site Plan Approval (Requesting approval for new communications tower in Agricultural zone)

PROJECT INFORMATION:

LOCATION: 1/10 mile north Woodville and Annapolis Roads intersection

ZONE: Agricultural

REGION: New Market

WATER/SEWER: No Planned Service

COMP. PLAN/LAND USE: Agricultural

APPLICANT/REPRESENTATIVES: (as applicable)

APPLICANT: T-Mobile Northeast LLC

OWNER: DPG Corporation

ENGINEER: Compass Technology Services

ARCHITECT: N. A.

ATTORNEY: Not Listed

STAFF: Stephen O'Philips, Principal Planner

RECOMMENDATION: Conditional Approval

Enclosures:

Exhibit #1: Aerial Photos (#1a & 1b)

Exhibit #2: BOA Findings and Decisions Letter, dated December 17, 2009

Exhibit #3: Zoning Ordinance Excerpts for Communications Towers in Agriculture and RC Zones

Exhibit #4: Communications Tower Planning Commission Submittal (commentary and photo-simulations)

Exhibit #5: Site Plan (Sheets 1-10 of 10)

STAFF REPORT

BACKGROUND:

Board of Appeals Approval: This proposed communications tower requires Special Exception use approval before the Board of Appeals (BOA). On November 19, 2009, the BOA approved this Special exception use. (Findings and Decisions Letter is attached.)

Prior to that November 19th BOA Meeting, the Applicant held three community meetings (in July, September and November 2009) to discuss various options for locating the tower, thereby fine-tuning the location of the monopole with each successive meeting. The Applicant had previously examined alternative locations (building a bell tower at a nearby church; an existing, nearby transmission tower; and a nearby silo. The Applicant reported at the BOA hearing that none of those alternative locations provided adequate radio frequency coverage for those heights. Lastly, the Applicant provided expert testimony at the BOA hearing indicating nearby Maryland Community studies showed no deleterious effects on surrounding residential real estate values after communications towers were erected.

This Site Plan Application: The Applicant now requests Site Plan approval to build an un-manned communications tower (and ground equipment) in an Agricultural zone. (Attached are excerpts from the Zoning Ordinance regarding communication tower development in Ag and RC zones.) Communications towers are allowed in agriculture zones with Special Exception approval and Site Plan approval by the Frederick County Planning Commission (FcPc). The Applicant submitted this Site Plan application in January 2010. The Applicant resubmitted for review in August, at which time the Staff determined that Agency issues were mostly resolved and that this item could be placed on the FcPc Agenda.

SITE USE, CIRCULATION, PARKING, & UTILITIES:

Land Use and Zoning Review: The parcel on which this tower is proposed to be built has split zoning. The residential lots to the immediate south are zoned R-1 Residential; however, the area of proposed development is zoned Agriculture and that zone continues for approximately ½ mile to the north.

Dimensional Requirements/ Bulk Standards: The standard dimensional and bulk requirements for communications towers in an Agricultural zone are as follows:

Use Classification	Minimum Lot Area	Lot Width	Setback values	Height
Communications Tower	N.A.	N.A.	§ 1-19-8.332 (F): <i>Setback from all property lines shall be a distance not less than 1 foot for every foot of tower height, but in no case less than 300 feet from any adjoining residential structure. This setback distance may be modified by the Board of Appeals.</i>	§ 1-19-8.332 (A): <i>The tower height may exceed the maximum height permitted within the RC and A Districts after a determination by the approving body that its visual profile and appearance would make no substantial change in the character of the area, provided, however, that in no event shall the maximum allowed tower height exceed 199 feet.</i>

The Applicants lease property conforms to all dimensional and bulk requirements. On Sheet 2 (C-1) the 300' radius setback has been demonstrated. On Sheet 5 (C-4) the monopole height is shown to be 120' with a 5' extension for lightning rod and antennae extensions. These height values were presented at the BOA hearing and are less than the 199' maximum allowed by § 1-19-8.332 (A) of the Zoning Ordinance.

Access/Circulation and Road Frontage Improvements: The Applicant proposes to upgrade an existing, gravel farm entrance with a paved apron entrance. Because of the limited need for site access, no frontage improvements are required for this entrance.

Parking Space and Loading Area: Because this will be an un-manned facility, no standard parking spaces or loading areas are required.

Utilities: The parcel is classified as No Planned Service. Because this will be an un-manned facility, no well or septic facilities are required for its operation.

ENVIRONMENTAL ANALYSIS:

Open/Green Space and Floodplain Issues: There are no open or green space requirements in the Agricultural zone. Also, there are no hydrological or buffer elements on this lease area.

Landscaping: During the 2009 community meetings that were required as part of the BOA hearings, the applicant located the proposed communications tower in a clump of trees at the request of the citizens attending the community meetings. The existing forest will provide some measure of screening and buffering. Based on the photo-simulation studies the existing trees seem to cover about 60% of the height of the monopole. The Applicant proposes to augment the forest with 10 Eastern Red Cedar (native) trees.

Technically, there are no other landscape requirements (street tree, parking screening and property line plantings) because the screening has already been met by the existing forest area and the site development and development area do not generate other landscape requirements.

Storm-water Management (SWM) Design: This project was tested with regard to the requirements of the Maryland Storm-water Management Act of 2007 (SWM 2007), which became effective May 4, 2010. However, because the site disturbance is less than 5,000 sq. ft. an exemption is applied to this site development.

Forest Resource Ordinance (FRO): There are no priority systems on site. Therefore, the Applicant proposes (and is allowed) to meet FRO requirements by providing either a fee-in-lieu payment or banking credits.

MISCELLANEOUS DESIGN and ADMINISTRATIVE ISSUES:

Lighting: This tower will not require any lighting of any kind. An FAA study confirmed that this tower will not require security lighting.

Signage: The Applicant proposes no signage with this application other than the six sq. ft. identification sign required by the Zoning Ordinance.

Fencing: The Applicant is providing an 8' high wire mesh fence with three strands of barbed wire and anti-climb support arches.

Guarantee: In accordance with §1-19-420.2(B), the Applicant must post an acceptable guarantee with the County on forms approved by the Zoning Administrator prior to permit release. The guarantee is to ensure proper removal of the tower if it ceases to be used for six months or more. The Applicant has noted their intent to execute this monetary guarantee.

Propagation Studies: As required by § 1-19-8.420.2 the Applicant has included propagation studies in the "Communications Tower Planning Commission Submittal" packet indicating *before* and *after* coverage information.

Photo-simulation Studies: As required by § 1-19-8.420.2 the Applicant has included photo-simulation in the "Communications Tower Planning Commission Submittal" packet showing *before* and *after* views from several vantage points.

ADEQUATE PUBLIC FACILITIES ORDINANCE (APFO):

In General: This project was reviewed for potential impacts on schools, water/sewer and roads. This project was determined to generate no impacts on schools, utilities or traffic.

- ☐ **Schools:** The non-residential nature of this project has no impact on schools.
- ☐ **Water and Sewer.** The un-manned operations will require no water or sewer facilities.
- ☐ **Traffic:** The traffic engineer has indicated that less than one peak-hour trip will be generated on this site and is therefore exempt.

Therefore, this project is exempt from APFO.

OTHER AGENCY COMMENTS:

Agency or Ordinance Requirement	Comment
Engineering Section, DPDR	Conditional Approval. Notes are required indicating SWM exemption and providing for minor technical data corrections.
Comprehensive Planning:	Conditional Approval, subject to project completion as per conditions of BOA.
Planning Section, DPDR	Approved.

Agency or Ordinance Requirement	Comment
Life Safety, DPDR	Approved. Emergency Response Information: 1 st Responder: Mt. Airy 2 nd Responder: New Market
Health Department	Conditional Approval (with no listed conditions).
DUSWM	Approved.
Historic Preservation	Approved. No known historic structures or archeological sites are located on the parcel. However, the monopole may be partially visible from two Maryland Inventory of Historic Properties sites: 1) (F-5-075) Prospect Church, 5923 Woodville Rd.; and 2) (F-5-114) James P. Barnes House, 6114B Woodville Road. The Inventory listing provides no regulatory restrictions or controls. Also, no tax or other financial benefits are available to owners of Inventory properties.

FINDINGS:

The Applicant is requesting approval of Site Plan (AP # 10406) for a communications tower monopole 120' in height with a 5' extension for lightning rod and antennae extensions, and ground facilities. The Applicant is also requesting FRO and APFO approval.

The Staff finds that:

- 1) Site Plan approval can be given for a three-year period from the date of FcPc approval.
- 2) This project is exempt from the APFO.
- 3) There are no hydrological components on this site. FRO forest requirements are being met with fee-in-lieu or banking credits.
- 4) This site generates no parking or loading requirements.
- 5) The Applicant must post an acceptable guarantee with the County on forms approved by the Zoning Administrator prior to permit release.
- 6) Based upon the discussion in the report, the Staff finds that the Revised Site Plan application meets and/or will meet all applicable Zoning, Subdivision, APFO and FRO requirements once all Staff and Agency comments and conditions are met or mitigated. With certain conditions of approval added, the Staff offers no objection to approval.

RECOMMENDATION:

Should the FcPc choose to approve this Site Plan application (AP # 10406), the FcPc should also cite the following additional approval:

- FRO approval (AP # 11105)

The Staff would recommend adding the following conditions to the approval:

Applicant shall:

- 1) Post an acceptable guarantee with the County on forms approved by the Zoning Administrator prior to permit release.
- 2) Comply with Agency comments as this project moves through the development process.

Exhibit #1 



Exhibit #1 **B**



IN THE MATTER OF:	*	BEFORE THE
THE APPLICATION OF	*	BOARD OF APPEALS
T-Mobile Northeast LLC c/o	*	FOR FREDERICK COUNTY, MD
Hillorie Morrison, agent	*	CASE NO. B-09-06
	*	

* * * * *

FINDINGS AND DECISIONS

This matter comes before the Board on the application of T-Mobile Northeast LLC as represented by Ms. Morrison and Greg Rapisarda, Esq. of Saul Ewing (hereinafter "the Applicants") for a special exception as provided for in the Frederick County Code. The property (hereinafter "the Property") for which the special exception is sought consists of 104 +/- acres of land, more or less, and is located approximately 900 ft. northwest of the intersection of Old Annapolis Road and Woodville Road, Mt. Airy, Maryland, zoned Agricultural (Ag). It is further identified as Parcel 42 on Frederick County Tax Map No. 81. Applicant seeks a special exception under Section 1-19-3.21, 1-19-8.332 and 1-19-8.420 of the Frederick County Code in order to establish a 120 ft. high telecommunications monopole and a 20 ft. x 25 ft. equipment compound at the base.

The Frederick County Code, Section 1-19-3.210 (B) provides that a special exception is a matter of development policy and that the Board of Appeals "should consider the relation of the proposed use to the existing and future development patterns." In addition, Section 1-19-3.210 provides that the following conditions must be met:

1. The proposed use is consistent with the purpose and intent of the Comprehensive Development Plan and of this chapter; and
2. The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located; and
3. Operations in connection with any special exception use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or other characteristics than would be the operations of any permitted use not requiring special exception approval; and
4. Parking areas will comply with the off street parking regulations of this chapter and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety; and
5. The road system providing access to the proposed use is adequate to serve the site for the intended use; and
6. A written application is submitted; and
7. A public hearing has been held.

In addition, the proposed operation must meet the requirements of Section 1-19-8.332 and 8.420, as follows:

The following provisions shall apply to communication towers in RC and A Districts.

- (A) The tower height may exceed the maximum height permitted within the RC and A Districts after a determination by the approving body that its visual profile and appearance would

make no substantial change in the character of the area, provided, however, that in no event shall the maximum allowed tower height exceed 199 feet.

(B) All applications for a special exception shall include:

- (1) Computer modeling information used in selecting the site;
- (2) Listing of alternative sites considered and why not selected;
- (3) Photographs of the existing conditions of the site and area;
- (4) Photo documentation that a balloon test has taken place at the proposed site location.

(C) All applications for a tower shall be accompanied by a non-binding 5 year plan of the applicant or the locating provider, showing the existing and proposed communications network within the county.

(D) A NEPA (National Environmental Policy Act) checklist prepared in accordance with section 106 of NEPA shall be provided as part of all applications.

(E) The applicant must publicize the proposal, using a block advertisement of a size acceptable to staff, which includes a map showing the site and a 1 mile radius and must hold an informational meeting in the area of the tower within 2 weeks after submitting the application. Written notice of such meeting shall be provided to all abutting property owners of the property on which the site is located and any homeowners/community associations within the 1 mile radius.

(F) Setbacks for communications towers shall be as follows: setback from all property lines shall be a distance not less than 1 foot for every foot of tower height, but in no case less than 300 feet from any adjoining residential structure. This setback distance may be modified by the Board of Appeals.

(G) The zoning certificate issued for a special exception shall be valid for a period of 5 years from the date that the decision of the Board of Appeals is signed. This zoning certificate shall be renewed for additional 5 year periods after review by the Board of Appeals at a regular meeting. The following are the only grounds on which renewal of a certificate may be denied.

- (1) The permittee has failed to comply with the conditions of the special exception approval.
- (2) The facility has not been maintained in a safe condition.
- (3) The Board of Appeals determines that the use of the tower for wireless communications has ceased for a period of 6 months.

(H) All special exception approvals must also comply with the requirements of § 1-19-8.420.2.

And Section 1-19-8.420:

The following design criteria shall apply to all communication towers in the HS, GC, ORI, LI, GI, MM and non-residential MXD zoning districts as well as special exceptions in the RC and A Districts.

(A) The applicant and the property owner shall be responsible for maintaining the tower in a safe condition.

- (B) The tower shall be utilized continuously for wireless communications. In the event the tower ceases to be used for wireless communications for a period of 6 months, the approval will terminate. The property owner shall remove the tower within 90 days after termination. The property owner shall insure the tower removal by posting an acceptable monetary guarantee with the county on forms provided by the office of the Zoning Administrator. The guarantee shall be for an amount equal to a cost estimate approved by the Zoning Administrator for the removal of the tower, plus a 15% contingency.
- (C) All towers shall be designed for co-location, which shall mean the ability of the structure to allow for the placement of antennae for 2 or more carriers. This provision may be waived by the approving body if it is determined that co-location will have an adverse impact on the surrounding area.
- (D) The tower height may exceed the maximum height permitted within the HS, GC, ORI, LI and GI Districts, and provided the required setbacks are met after a determination by the approving body that its visual profile and appearance would make no substantial change in the character of the area.
- (E) All applications for approval of communications towers shall include:
- (1) Justification from the applicant as to why the site was selected;
 - (2) Propagation studies showing service area and system coverage in the county;
 - (3) Photo simulations of the tower and site, including equipment areas at the base from at least 2 directions and from a distance of no more than 1 mile.
- (F) As part of the site plan review, screening and fencing may be required around the base of the tower structure and any equipment buildings.
- (G) The appearance of the tower structure shall be minimized by the reasonable use of commercially available technology to reduce visual impact, with specific reference to size, color and silhouette properties. The decision of the approving authority shall be final.
- (H) No lighting is to be placed on the tower unless specifically required by the Federal Aviation Administration.
- (I) Monopoles shall be the preferred tower structure type within the county.
- (J) All tower sites shall be identified by means of a sign no larger than 6 square feet affixed to the equipment building or fence enclosure. Said sign shall identify the tower owner and each locating provider and shall provide the telephone number for a person to contact in the event of an emergency.
- (K) Site plan approval for the tower, access, equipment, and structures shall be by the Planning Commission in accordance with the site plan regulations specified within the zoning ordinance.
- (L) No towers are permitted within land designated or eligible for designation for National Register or Frederick County Historic Districts or Sites.

(M) A copy of all reports including the environmental assessment, NEPA review, and SHPO review, as required by or provided to the Federal Communications Commission, shall be included as part of the application.

(N) Towers should be sited within or adjacent to areas of mature vegetation and should be located down slope from ridge lines and towards the interior of a parcel whenever possible and only should be considered elsewhere on the property when technical data or aesthetic reasons indicate there is no other preferable location.

(O) All applications shall include information as to how the applicant has addressed the visual impact of the tower on all county designated preservation areas, such as: rural legacy areas, agricultural preservation areas, critical farms, Monocacy Scenic River, Appalachian Trail, historic sites and sites eligible for designation.

(P) Towers may be permitted within the Mineral Mining (MM) and non-residential Mixed Use Development (MXD) floating zones with the approval of the Planning Commission. Towers shall not be permitted within residential, PUD or residential MXD Districts.

(Q) Communications towers in existence on the effective date of this ordinance (Ord. 99-14-241) shall not be required to comply with these provisions, except in the event they increase the height.

(R) Except as provided in § 1-19-8.332(F) setbacks for communications towers shall be as follows.

(1) Setback from all property zoned residential shall be a distance not less than 1 foot for every foot of tower height, but in no case less than 300 feet. Setback distance may be modified by the approving body.

(2) Setbacks from all properties zoned other than residential shall be determined by the approving body, but shall not be less than the fall zone of the tower as defined by the engineering specifications.

At the Nov. 19, 2009 hearing, testimony was presented by Mr. Rick Brace, Principal Planner II for Frederick County, Mr. Larry Smith, Frederick County Zoning Administrator, the Applicants and residents in both verbal and written testimony.

In accordance with section 1-19-3.210(A), as noted in testimony, the proposed operation is consistent with the purpose and intent of the Comprehensive Development Plan in that the Board notes in Section 9-24 through 9-28 of the Comprehensive Plan are provisions for telecommunication towers in Frederick County. The Board further couples this with the provisions of the Code which require the nature and intensity of the special exception to be in harmony with the appropriate and orderly development of the neighborhood. The Frederick County Code provides that one of the principles of the agricultural zone is to preserve the character of the neighborhood and locating the structure in the existing tree area on this 104 acre site does so.

The Board further finds that the placement of the operation at this location would not be objectionable to neighboring properties due to noise or vibrations and that its visual impacts are minimized by the location in the wooded portion of the tract.

The Board finds that the Application meets the all other requirements of Section 1-19-3.210 of the Zoning Ordinance.

The Applicant's site plan shows the parking areas all comply with section 1-19-6.220 of the Zoning Ordinance. In addition, the site plan indicates that the entrance and exit drives do not pose a risk to the safety of those utilizing the site. Furthermore, Staff testimony, Applicant's testimony and site plans identify the road system to the Property as a local road which the Board finds as adequate to serve the site for the proposed uses.

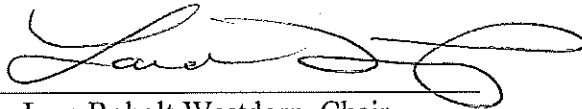
Mr. Clapp made a motion to grant the request based on the comments made by the members of the Board, the evidence and materials presented, and the application having met criteria set forth in Sections 1-19-3.210, 1-19-8.332, and 1-19-8.420, seconded by Mr. Peppe, Sr.

Mr. Duke made an amendment to the motion, to note that only criteria within Section 1-19-8.420 that is within the purview of the Board of Appeals apply to the motion and to add a condition that the Applicant, operator and all tenants of the communications tower will provide point of contact information annually to the Zoning Administrator. Mr. Clapp seconded the amendment to the motion.

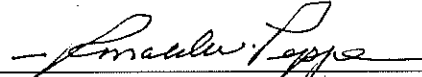
For all of the foregoing reasons, the Board of Appeals unanimously grants the Applicants request for a special exception, on a motion from Mr. Clapp, seconded by Mr. Duke, subject to the condition(s):

1. Applicant and tenant are to provide contact information to the zoning Administrator on an annual basis.

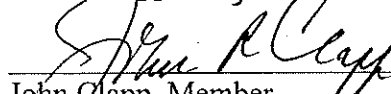
Adopted by the Board of Appeals on the 17th day of December, 2009.



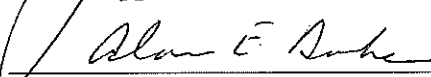
Lara Roholt Westdorp, Chair



Ronald Peppe, Sr., Member



John Clapp, Member



Alan Duke, Member



Christopher Manners, Alternate Member

Section 1-19-3.200 (J)

A decision of the Board granting a variance or a special exception will be void two years from date of approval unless the use is established or a building permit is issued and construction has begun and is in accordance with the terms of the decision.

Exhibit #3

Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	HS	GC	ORI	LI	GI
Communication towers**	E	E								PS	PS	PS	PS	PS

** Communication towers not permitted in residential, PUD and residential MXD Districts

§ 1-19-6.160. HEIGHT MODIFICATION.

The building height limitations of this chapter do not apply to:

(A) Penthouses or roof structures for housing stairways, tanks, elevators, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, steeples, flag poles, and silos;

(B) Smoke stacks, masts, water tanks, monuments. Bulkheads, monitors and scenery lofts, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures where the manufacturing process requires a greater height, radio or television towers and essential services. Any such structure which exceeds the maximum height limit otherwise permitted in the district, the distance from its front, side and rear lot lines shall be no less than the maximum vertical height of such structures;

(C) Churches, schools, institutional buildings, public utility buildings and structures provided that for each 3 feet by which the height of such structure exceeds the maximum height generally permitted for structures in the district, the required side and rear yards measurements will be increased by an additional foot.

(Ord. 77-1-78, § 40-84, 1-24-1977; Ord. 08-26-502, 10-14-2008)

§ 1-19-8.332. COMMUNICATION TOWERS IN RC AND A DISTRICTS.

The following provisions shall apply to communication towers in RC and A Districts.

(A) The towers height may exceed the maximum height permitted within the RC and A Districts after a determination by the approving body that its visual profile and appearance would make no substantial change in the character of the area, provided, however, that in no event shall the maximum allowed towers height exceed 199 feet.

(B) All applications for a special exception shall include:

- (1) Computer modeling information used in selecting the site;
- (2) Listing of alternative sites considered and why not selected;
- (3) Photographs of the existing conditions of the site and area;
- (4) Photo documentation that a balloon test has taken place at the proposed site location.

(C) All applications for a towers shall be accompanied by a non-binding 5 year plan of the applicant or the locating provider, showing the existing and proposed communications network within the county.

(D) A NEPA (National Environmental Policy Act) checklist prepared in accordance with section 106 of NEPA shall be provided as part of all applications.

(E) The applicant must publicize the proposal, using a block advertisement of a size acceptable to staff, which includes a map showing the site and a 1 mile radius and must hold an informational meeting in the area of the towers within 2 weeks after submitting the application. Written notice of such meeting shall be provided to all abutting property owners of the property on which the site is located and any homeowners/community associations within the 1 mile radius.

(F) Setbacks for communications towers shall be as follows: setback from all property lines shall be a distance not less than 1 foot for every foot of tower height, but in no case less than 300 feet from any adjoining residential structure. This setback distance may be modified by the Board of Appeals.

(G) The zoning certificate issued for a special exception shall be valid for a period of 5 years from the date that the decision of the Board of Appeals is signed. This zoning certificate shall be renewed for additional 5 year periods after review by the Board of Appeals at a regular meeting. The following are the only grounds on which renewal of a certificate may be denied.

(1) The permittee has failed to comply with the conditions of the special exception approval.

(2) The facility has not been maintained in a safe condition.

(3) The Board of Appeals determines that the use of the tower for wireless communications has ceased for a period of 6 months.

(H) All special exception approvals must also comply with the requirements of § 1-19-8.420.2.

(Ord. 77-1-78, § 40-72(A-16), 1-24-1977; Ord. 95-02-126, 3-2-1995; Ord. 99-14-241, 11-23-1999; Ord. 08-26-502, 10-14-2008)

§ 1-19-8.420. COMMUNICATION TOWERS.

§ 1-19-8.420.1. SCOPE.

The provisions of this division shall apply to all communication towers erected in the county subsequent to the effective date of this amendment.

(Ord. 99-14-241, 11-23-1999; Ord. 08-26-502, 10-14-2008)

§ 1-19-8.420.2. CRITERIA.

The following design criteria shall apply to all communication towers in the HS, GC, ORI, LI, GI, MM and non-residential MXD zoning districts as well as special exceptions in the RC and A Districts.

(A) The applicant and the property owner shall be responsible for maintaining the tower in a safe condition.

(B) The tower shall be utilized continuously for wireless communications. In the event the tower ceases to be used for wireless communications for a period of 6 months, the approval will terminate. The property owner shall remove the tower within 90 days after termination. The property owner shall insure the tower removal by posting an acceptable monetary guarantee with the county on forms provided by the office of the Zoning Administrator. The guarantee shall be for an amount equal to a cost estimate approved by the Zoning Administrator for the removal of the tower, plus a 15% contingency.

(C) All tower shall be designed for co-location, which shall mean the ability of the structure to allow for the placement of antennae for 2 or more carriers. This provision may be waived by the approving body if it is determined that co-location will have an adverse impact on the surrounding area.

(D) The tower height may exceed the maximum height permitted within the HS, GC, ORI, LI and GI Districts, and provided the required setbacks are met after a determination by the approving body that its visual profile and appearance would make no substantial change in the character of the area.

(E) All applications for approval of communications towers shall include:

(1) Justification from the applicant as to why the site was selected;

(2) Propagation studies showing service area and system coverage in the county;

(3) Photo simulations of the tower and site, including equipment areas at the base from at least 2 directions and from a distance of no more than 1 mile.

(F) As part of the site plan review, screening and fencing may be required around the base of the tower structure and any equipment buildings.

(G) The appearance of the tower structure shall be minimized by the reasonable use of commercially available technology to reduce visual impact, with specific reference to size, color and silhouette properties. The decision of the approving authority shall be final.

(H) No lighting is to be placed on the tower unless specifically required by the Federal Aviation Administration.

(I) Monopoles shall be the preferred tower structure type within the county.

(J) All tower sites shall be identified by means of a sign no larger than 6 square feet affixed to the equipment building or fence enclosure. Said sign shall identify the tower owner and each locating provider and shall provide the telephone number for a person to contact in the event of an emergency.

(K) Site plan approval for the tower, access, equipment, and structures shall be by the Planning Commission in accordance with the site plan regulations specified within the zoning ordinance.

(L) No tower are permitted within land designated or eligible for designation for National Register or Frederick County Historic Districts or Sites.

(M) A copy of all reports including the environmental assessment, NEPA review, and SHPO review, as required by or provided to the Federal Communications Commission, shall be included as part of the application.

(N) Towers should be sited within or adjacent to areas of mature vegetation and should be located down slope from ridge lines and towards the interior of a parcel whenever possible and only should be considered elsewhere on the property when technical data or aesthetic reasons indicate there is no other preferable location.

(O) All applications shall include information as to how the applicant has addressed the visual impact of the tower on all county designated preservation areas, such as: rural legacy areas, agricultural preservation areas, critical farms, Monocacy scenic river, Appalachian Trail, historic sites and sites eligible for designation.

(P) Towers may be permitted within the Mineral Mining (MM) and non-residential Mixed Use Development (MXD) floating zones with the approval of the Planning Commission. Towers shall not be permitted within residential, PUD or residential MXD Districts.

(Q) Communications towers in existence on the effective date of this ordinance (Ord. 99-14-241) shall not be required to comply with these provisions, except in the event they increase the height.

(R) Except as provided in § 1-19-8.332(F) setbacks for communications towers shall be as follows.

(1) Setback from all property zoned residential shall be a distance not less than 1 foot for every foot of tower height, but in no case less than 300 feet. Setback distance may be modified by the approving body.

(2) Setbacks from all properties zoned other than residential shall be determined by the approving body, but shall not be less than the fall zone of the tower as defined by the engineering specifications.

(Ord. 99-14-241, 11-23-1999; Ord. 08-26-502, 10-14-2008)